

IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF TEXAS  
 WACO DIVISION

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|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| REPAIRIFY, INC.,              | ) |                                    |
|                               | ) |                                    |
| Plaintiff,                    | ) |                                    |
|                               | ) | CIVIL ACTION NO. 6:21-cv-00819-ADA |
| v.                            | ) |                                    |
|                               | ) |                                    |
| KEYSTONE AUTOMOTIVE           | ) |                                    |
| INDUSTRIES, INC. d/b/a ELITEK | ) |                                    |
| VEHICLE SERVICES, and DOES 1  | ) |                                    |
| Through 20, inclusive,        | ) |                                    |
|                               | ) |                                    |
| Defendants.                   | ) |                                    |
|                               | ) |                                    |

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UNOPPOSED MOTION BY NON-PARTY OPUS IVS, INC. FOR DISMISSAL FROM  
 PROCEEDINGS AND REMOVAL FROM SERVICE

Non-party Opus IVS, Inc. (“Opus IVS”) moves to be dismissed from these proceedings and be removed from further service of filings, correspondence and notices by the parties and the Court.

Two competing motions (ECF 77 and ECF 88) relating to discovery regarding non-party Opus IVS have now been denied. No matters regarding non-party Opus IVS remain pending before the Court.

During the discovery period in this action third party discovery was undertaken and obtained from Opus IVS. The discovery period is now closed. Despite being a non-party to this action, Opus IVS continues to be served with all of the pleadings, pre-trial notices and other materials in this action, in none of which Opus IVS is to participate. Pursuant to Fed.R.Civ.P. 41 the Court may dismiss a claim, and including dismissal of a Third-Party Claim pursuant to Rule 41(c). Fed.R.Civ.P. 21 also provides the Court has the power on just terms to add or drop a party

at any time. In this proceeding Opus IVS is a non-party and has not asserted a third-party claim against any of the parties. Even when addressing dismissal of a party the Court has broad discretion to dismiss a party from an action. *See e.g. Williams v. Hoyt*, 556 F.2d 1336, 1341 (5<sup>th</sup> Cir. 1977); *Anderson v. Moorer*, 372 F.2d 747, 750 fn. 4 (5<sup>th</sup> Cir. 1967). The Court unquestionably has authority to dismiss non-party Opus IV from these proceedings.

In this proceeding non-party Opus IVS moved for a protective order regarding certain discovery. (ECF 77). Defendant Keystone Automotive Industries, Inc. d/b/a Elitek Vehicle Services (“Elitek”) responded with a counter-motion to compel discovery from Opus IVS, (ECF 88). Pursuant to the Court’s Order of September 18, 2024, the motion by Elitek was denied. (See ECF No. 304 at 3.) As a result, the motion by Opus IVS for a protective order (ECF 77) was ruled to be moot by the Court’s Order of December 18, 2024. (ECF 328.)

Counsel for Opus IVS has determined that the present motion is not opposed by the parties. After inquiry to the parties by Opus IVS, on December 16, 2024, counsel for Defendant Elitek informed counsel for non-party Opus IVS that if the Opus IVS motion of ECF 77 was withdrawn, Elitek would not oppose a motion to withdraw third party Opus IVS from further service and correspondence. That motion by Opus IVS is now denied as moot. On March 28, 2025, counsel for Opus IVS informed counsel for the parties that on or after April 2, 2025, Opus IVS would seek to have Opus IVS removed from further correspondence and notices and would inform the Court that the request was not opposed by the parties. No objection has been received from the parties regarding this request.

Accordingly, non-party Opus IVS respectfully moves this Court for an order dismissing Opus IVS from these proceedings and removal from further service of filings, correspondence and notices by the parties and the Court.

Dated: April 3, 2025

Respectfully submitted,

/s/ Karl T. Ondersma

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*Attorneys for Non-Party OPUS IVS, INC.*

**CERTIFICATE OF SERVICE**

On April 3, 2025, I electronically submitted the foregoing document to the Clerk of Court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Karl T. Ondersma  
Karl T. Ondersma